

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JACOB HEATH VANSLYKE

PLAINTIFF

VS.

CIVIL ACTION NO. 5:22-CV-13-DCB-LGI

CAPTAIN PHIL TAYLOR,
MANAGEMENT AND TRAINING
CORPORATION (MTC),
LIEUTENANT CARRIE HUNT,
UNIT MANAGER VANESSA TURNER,
And OFFICER SHUNLEKEE PENNINGTON

DEFENDANTS

ORDER

THIS MATTER is before the Court on Magistrate Judge Isaac's Report & Recommendation ("R&R") [ECF No. 30], concerning Defendants Carrie Hunt, Management and Training Corporation (MTC), Shunlekee Pennington, Phil Taylor, Vanessa Turner's ("Defendants") Motion for Summary Judgment ("Motion"). [ECF No. 27]. The R&R was entered on May 16, 2023, and objections to it were due by May 30, 2023. No party has filed an objection, and the time to do so has elapsed.

Judge Isaac recommended that the Court grant Defendants' Motion and dismiss this case without prejudice. [ECF No. 30] at 12. Judge Isaac justifies her recommendation because Plaintiff Jacob VanSlyke ("Plaintiff") failed to administratively exhaust the claims he now brings in this action as required by statute. Id. at 10-12.

To satisfy the administrative exhaustion requirements in this action, a plaintiff must complete an internal grievance process prior to filing suit; mere initiation followed by abandonment or initiation after filing suit are both statutorily ineffective. Wilson v. Epps, 776 F.3d 296, 301 (5th Cir. 2015); Wheater v. Shaw, 719 F. App'x 367, 369 (5th Cir. 2018).

In this case, Plaintiff committed these fatal flaws: he voluntarily dismissed grievances relevant to these claims while pursuing grievances unrelated to this action and he filed some grievances after filing this action. [ECF No. 30] at 10-12. Because pre-filing exhaustion is mandatory, this case must be dismissed until Plaintiff has satisfied those requirements. Gonzalez v. Seal, 702 F.3d 785, 788 (5th Cir. 2012).

After conducting a de novo review of the R&R, the Court agrees with Judge Isaac's recommendation. Accordingly, the R&R is ADOPTED. Defendants' Motion is GRANTED and Plaintiffs claims against Defendants are hereby DISMISSED without prejudice.

A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this 15th day of June, 2023.

/s/ David Bramlette
DAVID C. BRAMLETTE
UNITED STATES DISTRICT JUDGE